



CITY OF FULSHEAR

30603 FM 1093, P. O. BOX 279, FULSHEAR, TEXAS 77441
PHONE: 281-346-1796 FAX: 281-346-2556

CITY COUNCIL MINUTES

FEBRUARY 19, 2013

I. CALL TO ORDER

A Regular City Council Meeting was called to order by Mayor Thomas C. Kuykendall, Jr. at 7:09 p.m. at the Fulshear City Hall, 30603 FM 1093, Fulshear, Texas 77441 and all citizens were welcomed.

Members Present:

Thomas C. Kuykendall, Jr.

Larry Beustring

J. B. Collins, Jr.

Stephen Gill

Laverne Patterson

Jeff Roberts

City Staff Present:

D. (Diana) Gordon Offord, City Secretary

J. Grady Randle, City Attorney

C. J. Snipes, City Administrator

Kristina Brasher, Finance Director

Kenny Seymour, Police Chief

Others Present:

Gwen Fox

Steve Sams

Russ Cosbey

J. D. McCann

Jim Eiteman

Jenni McLunkin

Alicia Coltzer

Mike Roller

Ramona Ridge

John Lebourhis

Viola Randle

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CONTINUE- OTHERS PRESENT:

Richard Stollecs

Kerry Gilbert

Angie Lutz

And 13 others who did not sign in

II. QUORUM

A quorum was present.

III. INVOCATION – Rev. Alicia Coltzer, Pastor of First United Methodist Church, Fulshear, Texas

Reverend Coltzer provided the prayer.

IV. PLEDGE OF ALLEGIANCE

Mayor Kuykendall led the audience in the Pledge of Allegiance.

V. PUBLIC HEARING

A. PUBLIC HEARING on ORDINANCE NO. 2013-1091 an ORDINANCE REGARDING PLATS and the SUBDIVISION of LAND within the CITY LIMITS and ETJ

Notice is hereby given that a public hearing shall be held by the City Council of the City of Fulshear, Texas, at its Regular Meeting to be held Tuesday, February 19, 2013 at 7:00 PM, in the Fulshear City Hall located at 30603 FM 1093 West, Fulshear, Texas 77441.

The purpose of the hearing is to receive comments from interested individuals regarding the revision of the City's Subdivision Ordinance.

Public Hearing was opened at 7:11p.m.

Kerry Gilbert stated that he received a copy of the proposed draft new Subdivision Ordinance today and is requesting time to review before it is adopted.

No other comments. Public Hearing was closed at 7:13 p.m.

VI. CITIZEN COMMENTS – NO ACTION CAN BE TAKEN

J.D. McCann of James Lane. Mr. McCann stated he was not aware of any new subdivision ordinance. He stated that a replat of subdivision south of town is planned for 714 lots near Bessie Creek. This will be two cars per family. They want to turn approximately 1400 cars on James Lane. Have discussed this with other emergency officials and there needs to be two emergency entrance inside the subdivision and this will keep all the traffic off James Lane. If turn the traffic on James Lane, it will cause a major traffic problem. He stated that studies need to be done before this is approved.

Jim Eitemann stated he go further than Mr. McCann. He stated turning 1400 cars loose on James Lane would be a safety issue as you only have about 500 feet of visibility from the top of hill on FM 1093. He stated this would make for one of the most dangerous intersection in Fort Bend County.

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He requested an engineering study and completion of TIA. The only way you can increase visibility to cut down the top of the hill.

Mike Roller stated he would wait until the agenda item 7H under Business comes up to make his comments.

Ramona Ridge stated that her comment is regarding the "welcome to Fulshear" sign. She stated that the front appearance is great but the back is less desirable. She stated that maybe it can be addressed in an ordinance before we get to much more growth.

CONSENT AGENDA

Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this rule is that a Council Member may request one or more items to be removed from the consent agenda for a separate discussion and action.

- A. CONSENT and APPROVAL of MINUTES from the JANUARY 15, 2013 MEETING**
- B. CONSENT and APPROVAL of QUARTERLY INVESTMENT REPORT for the QUARTER ENDED DECEMBER 31, 2012**
- C. CONSENT and APPROVAL of REVENUE and EXPENSES REPORT (UNAUDITED) AS OF FEBRUARY 28, 2013**
- D. CONSENT and APPROVAL of CROSS CREEK RANCH FLEWELLEN CREEK SECTION ONE/ FINAL PLAT**
- E. CONSENT and APPROVAL of CROSS CREEK RANCH DETENTION and WATER QUALITY BASINS/ FINAL PLAT**
- F. CONSENT and APPROVAL of CROSS CREEK RANCH DOG PARK and RECREATION CENTER/ FINAL PLAT**
- G. CONSENT and APPROVAL of VARIANCE REQUEST: ADAM PERRY, 27503 CALDWELL SKY LANE, FULSHEAR, TEXAS 77441**
- H. CONSENT and APPROVAL of CVS COMMERCIAL RESERVES A and B REPLAT #2/PRELIMINARY PLAT**
- I. CONSENT and APPROVAL to AUTHORIZE MAYOR to SIGN JOINT ELECTION AGREEMENT and CONTRACT for ELECTION SERVICES**

A motion was made by Alderman Beustring to approve the Consent Agenda as presented. It was seconded by Alderman Collins. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson

Nays: None

VII. REPORTS

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Reports are presented to Council for informational purposes only and no action may be taken on any item contained in a report with a specific actionable item listed under Business Items.

A. REPORT from SEVERN TRENT WATER SERVICES (Repairs, New installations, and reports to TCEQ.)

A report from Severn Trent Water Services was provided by Mark Yentzen. No action taken.

B. REPORT from the POLICE DEPARTMENT (Traffic Citations, arrests, incidents, calls for service)

A report from Police Department was provided by Chief Kenny Seymour. No action taken.

C. REPORT from the MUNICIPAL COURT CLERK (Fees and Fines)

A report from the Municipal Court was provided by Elaine Brown. No action was taken.

D. REPORT from the BUILDING PERMIT OFFICE (Permits issued, fees, etc.)

A copy of the report was included in the Council Packet. Michelle Kirchner was out. Mayor Kuykendall asked if anyone had any questions. Council was silent. No action taken.

VIII. BUSINESS

A. PRESENTATION of ANNUAL RACIAL PROFILING and CRIMINAL STATISTICS REPORT by CHIEF SEYMOUR

Chief Seymour presented to Council the annual report regarding racial profiling report per Article 2.132(b) CCP Law Enforcement Policy. It was shown on video screen to all present. It noted that 1197 citation (151 African; 15 Asian; 557 Caucasian; 450 Hispanic; 24 Middle Eastern; 0 Native American). No action was taken.

B. PRESENTATION on POTENTIAL REVISED PREFERRED ALIGNMENT for FM 1093 EXPANSION PROJECT by DANNENBAUM ENGINEERING

A presentation was provided to Council by Michael Dannenbaum of Dannenbaum Engineering regarding the reconstruction of Farm Market 1093 (known as FM 1093). He stated that the project will begin at Hwy 99. Construction will begin November, 2013.

It will consist of two (2) Phases. Phase 1 will be from West Park Tollway to FM 1463 and second phase will be from FM 1463 to James Lane. Each phase will take approximately 18 months. The first phase is estimated cost is approximately 60.1 million and estimated cost for the second phase is 24.1 million. The project will be a joint effort on behalf of the Texas Department of Transportation (TxDot), Fort Bend County, and City of Fulshear.

Mr. Dannenbaum had a video that outlining the revamping of FM 1093 which he shared with the audience. Mr. Dannenbaum conclude his presentation and Mayor Kuykendall thanked him for his presentation.

C. CONSIDERATION and POSSIBLE ACTION to SUSPEND ACCOUNTS and PAYABLES RELATED to CERTAIN CONTRACTS for WATER and WASTE SERVICE DATING to FISCAL YEAR 2011-2012

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C.J. Snipes, City Administrator, stated that the previous account payable has not been resolved with our previous water and waste water service provider. There are still outstanding disclosures and conditions so we can further audit and determine the amounts.

A motion was made by Alderman Gill to approve action to suspend accounts and payables related to certain contracts for water and waste service dating to Fiscal year 2011-2012. It was seconded by Alderman Beustring. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson
Nays: None

D. CONSIDERATION and POSSIBLE ACTION to APPROVE LIST of PAYABLES and CHECKS PAID from JANUARY 12, 2013 through FEBRUARY 12, 2013

A motion was made by Alderman Gill to approve the list of payables and checks paid from January 12, 2013 through February 12, 2013 as presented. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson
Nays: None

E. CONSIDERATION and POSSIBLE ACTION to APPROVE RESOLUTION NO. 2013-218 a RESOLUTION APPROVING the CREATION of a FIXED ASSETS CAPITALIZATION POLICY for the CITY

A motion was made by Alderman Roberts to approve Resolution No. 2013-218 a Resolution approving the creation of a fixed assets capitalization policy for the City. It was seconded by Alderman Beustring. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson
Nays: None

F. CONSIDERATION and POSSIBLE ACTION to APPROVE RESOLUTION NO. 2013-219 a RESOLUTION APPROVING the DECLINATION of the COLLECTION of PEG FEES by TELECOMMUNICATIONS PROVIDERS within the CITY LIMITS

J. Grady Randle stated that this is a fee that cable companies charge to customers if allowed.

Peg fees are used to provide for members of the public, accredited educational institutions, and to produce their own shows and televise them to a mass audience.

C.J. Snipes, City Administrator, stated that this item was on the agenda about a year ago and Council opted not to taken any action. The subject has now re-appeared again. Mr. Snipes stated that it would be more bookkeeping than benefit to the City.

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A motion was made by Alderman Beustring to approve Resolution No. 2013-219 a Resolution approving the declination of the collection of peg fees by Telecommunications providers within the City limits. It was seconded by Alderman Collins. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson

Nays: None

G. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE No. 2013-1091 an ORDINANCE of the CITY of FULSHEAR PROVIDING RULES and REGULATIONS GOVERNING PLATS and the SUBDIVISION of LAND within the CITY LIMITS and its EXTRATERRITORIAL JURISDICTION

C.J. Snipes, City Administrator, stated that the previous ordinances had been amended approximately ten times; all of the changes are now included in this one ordinance. Mr. Snipes stated that work on this ordinance began about two years ago. This ordinance will be in effect for any new developments coming to the area.

A motion was made by Alderman Beustring to approve Ordinance No. 2013-1091 an Ordinance of the City of Fulshear providing rules and regulations governing plats and the subdivision of land with the City limits and its Extraterritorial Jurisdiction. It was seconded by Alderman Gill. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson

Nays: None

Mayor Kuykendall excused himself due to a possible conflict of interest and Mayor Pro Tem, Stephen Gill, presided over this portion of the meeting. Mayor Kuykendall acknowledged Commissioner Meyer in the audience. He thanked Commissioner Meyer regarding his support with the FM 1093 project. Mr. Gill conducted the meeting beginning with "Item H."

H. CONSIDERATION and POSSIBLE ACTION to APPROVE RESOLUTION NO. 2013-220 a RESOLUTION of the CITY of FULSHEAR APPROVING REVISION to the LOCALLY PREFERRED ALIGNMENT of DESIGN for the EXPANSION of FM 1093

Mayor Pro Tem Gill asked if there were any discussion. David Milner presented to the Council and audience a detail outline of how the potential re-vamping of FM 1093 would consist of two phases.

Mike Roller stated that the donut configuration is going to be a safety issue. He thinks it will bottle-neck the traffic since cars will be coming be eastbound, westbound, north, and south at the donut and it will probably be confusing to the drivers.

This discussion lasted about 45 minutes. Each speaker presented a position for realignment of FM 1093.

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Andy Meyers, Commissioner for Precinct 3, states that the County will be building phase 2 of the FM 1093 project. He stated that if the State was involved it would entail a six year study (which included this environmental impact study). The County is allowing the City to define what your city will look like and the leaders of the City did not want a wide thoroughfare going through downtown and also you did not want a toll road going through the City. We also recognize it is your decision where the lanes will go. Commissioner Meyer stated he is willing to work with the developers and the City but he is running behind on the project. He stated that he is sure that an agreement can be reached and if not he is committed to moving forward with the project whatever is beneficial to the County, City, and the property owners.

This portion of the discussion was that if the Harrison property is used as commercial frontage roads are also needed on the Southside and the project calls for only frontage roads on the north side. This would not be beneficial for the landowner nor the City.

The attorney for Harrison Interests (Richard Stollecs) presented a view concerning loss revenue if the City precedes with the currently alignment for FM 1093. He indicated that he was willing to meet with city officials to discuss an alternative of having frontage road on the Southside of FM 1093.

Council took no action on this item.

I. DISCUSSION and CONSIDERATION of ISSUES RELATED to CREATION of MUNICIPAL UTILITY DISTRICTS in the SOUTHERN AREA of the CITY'S ETJ

Mayor Kuykendall announced that we have one more item to address. He stated now we will enter into Executive Session at 10:01 p.m. to discuss creation of Municipal Utility Districts in the southern area of the City's ETJ.

IX. EXECUTIVE SESSION – CLOSED SESSION IN ACCORDANCE WITH GOVERNMENT CODE SECTION 551.072. DELIBERATION REGARDING REAL PROPERTY. A GOVERNMENTAL BODY may CONDUCT a CLOSED MEETING to DELIBERATE the PURCHASE, EXCHANGE, LEASE, or VALUE of REAL PROPERTY if DELIBERATION in an OPEN MEETING WOULD have a DETRIMENTAL EFFECT on the POSITION of the GOVERNMENTAL BODY in NEGOTIATIONS with a THIRD PERSON.

SECTION 551.071, CONSULTATION with ATTORNEY; SPECIFICALLY SUB-SECTIONS:

1) WHEN the GOVERNMENTAL BODY SEEKS the ADVICE of its ATTORNEY ABOUT:

(A) PENDING or CONTEMPLATED LITIGATION; or

(B) A SETTLEMENT OFFER; or

ON a MATTER in which the DUTY of the ATTORNEY to the GOVERNMENTAL BODY under the TEXAS DISCIPLINARY RULES of PROFESSIONAL CONDUCT of the STATE BAR of TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER.

**DISCUSSION of RIGHT of WAY IMPACT/ ACQUISITION RELATED to FM 1093 and
FULSHEAR PARKWAY ALIGNMENT MODELS
PROPOSED SOUTHERN MUNICIPAL UTILITY DISTRICTS for FOSTER FARMS**

X. RECONVENE AND TAKE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF DEEMED APPROPRIATE

Mayor Kuykendall announced that we are reconvening into Regular Session at 10:38p.m. and quorum was present. Mayor Kuykendall asked if there was any action needed from the Executive Session.

A motion was made by Alderman Gill to deny proposed creation of Southern Municipal Utility District. Alderman Gill stated he would like for C. J. Snipes, City Administrator, address a letter to entity subject to our objections for the creation of the muds and that it is not vested under any previous Subdivision Ordinance. It was seconded by Alderman Beustring. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson

Nays: None

XI. ADJOURNMENT

A motion was made by Alderwoman Patterson to adjourn. It was seconded by Alderman Collins. The motion was carried by the following vote:

Ayes: Aldermen Beustring, Collins, Gill, Roberts, and Alderwoman Patterson

Nays: None

Mayor Kuykendall announced that we are adjourned at 10:39 p.m.

Thomas C. Kuykendall, Jr. - Mayor

Attest:

D. (Diana) Gordon Offord - City Secretary